

On January 19, 2007, Defendant O'Rane M. Cornish, Sr. filed a motion, entitled "1. Motion for Leave to Amend and Supplement Defendant's Sworn Response to Show Cause Order; 2. Motion for Leave to Reply to the Prosecution's Out of Time Response to the Court's September 26, 2006 Order to Respond; 3. Motion to Sanction Prosecution for Failure to Obey Court 9/26/06 Order to Respond." (Docket Entry ("D.E.") 13.) The Government did not respond to the motion. The Court issued an order on August 14, 2007 that addressed the motion but was erroneously entitled as an order of dismissal. (D.E. 14.) A judgment was entered on August 16, 2007. (D.E. 15.) On August 24, 2007, Defendant filed a motion for reconsideration of the dismissal order and judgment. (D.E. 16.) The Government has not responded to that motion, and the time for response has expired. For good cause shown,

the Court GRANTS Defendant's motion for reconsideration and VACATES the August 14, 2007 order and the judgment.

As for the motion filed on January 19, 2007, Defendant first seeks to correct his failure to sign his response under penalty of perjury.<sup>1</sup> Defendant also seeks to make additional arguments in response to the show cause order and to reply to the Government's response to the § 2255 motion. The motions to amend and supplement and to reply are GRANTED.<sup>2</sup>

Defendant's suggestion that the Government be sanctioned for its late filing are meritless. The September 26, 2006 order directed "[t]he Government . . . to respond to the Defendant's Brady issue within thirty (30) days of the date of filing of the Defendant's response to the order to show cause." (D.E. 7 at 7.) The Government's obligation to file a response was not triggered until Defendant filed his response to the order to show cause on November 24, 2006, and the Government filed its response less than thirty (30) days later, on December 19, 2006. The motion for sanctions is DENIED.

IT IS SO ORDERED this 20<sup>th</sup> day of February, 2008.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> In its September 26, 2006 order, the Court advised Defendant that "any factual assertions must be made in an affidavit or a declaration sworn to under penalty of perjury, pursuant to 28 U.S.C. § 1746." (D.E. 8 at 6.)

<sup>2</sup> In order to avoid any misunderstanding, the Court has granted leave to amend and supplement only to make clear that the material submitted in the January 19, 2007 filing is under consideration. This order does not authorize Defendant to raise any new issue not raised in the original motion and supplement, and it also does not authorize Defendant to add any new factual ground to his Brady claim.